

Serial No. 09/862,914 - Magine, et al.

Response #5  
C. Burns  
07/16/02

## PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Examiner:** Daniel Pihulic  
(703) 306-4168 (ph), (703) 872-9326 (fax: non-final response)  
**Inventors:** Daniel J. Magine and Kevin D. Kaschke  
**Docket No.:** DJM0001  
**Appln. No.:** 09/862,914  
**Filing Date:** May 22, 2001  
**Entitled:** Underwater Alert System

**Priority Date:** None  
**Group Art Unit:** 3662

FAX RECEIVED

JUL 15 2002

GROUP 3600

Kevin D. Kaschke  
1507 Diamond Drive  
Hoffman Estates, Illinois 60195

July 12, 2002

Official

**Informal Non-Final Response -- DO NOT ENTER**

Honorable Assistant Commissioner of Patents  
Washington, D.C. 20231

Dear Examiner Pihulic:

1. Responsive to the first office action dated July 5, 2002 for the above-identified patent application, the applicants hereby submit the following response. Daniel J. Magine and/or myself, the inventors of the present patent application, would like to schedule a telephone interview with you regarding the present office action. We prefer an interview time between 8am and 11 am CST sometime during the next two weeks. In the interview, we would like to discuss with you the following items, after you have retrieved the file and refreshed your memory about the file.

2. Various claims are rejected under 35 U.S.C. 102(b) as being anticipated by Gardos. Gardos discloses an underwater voice communication system similar to those described as "Diver-to-Diver Voice Communication Systems" in the present application on page 5, line 15 to page 6, line 2. The present independent claims were drafted to overcome this type of system by using the word "predetermined" in the phrases "first predetermined electrical transmit signal" and "first predetermined wireless signal" in the transmitter assembly, as described in the present application on page 20, line 18 to page 21, line 6. The word "predetermined" is also used in the phrases "first predetermined electrical alert attention signal" and "first predetermined alert" in the receiver assembly. As noted at the present application, voice signals are not predetermined

1/3

**Informal Non-Final Response -- DO NOT ENTER**

Serial No. 09/862,914 - Magine, et al.

because the modulated information changes to represent the diver's voice. Please consider whether you properly considered this language as representative of the distinction we intended or whether an amendment would be necessary to further clarify this distinction.

3. Various claims are rejected under 35 U.S.C. 103(a) as being anticipated over Gardos in combination with Comerford, et al. In addition to Gardos, as described above, Comerford, et al. discloses a dive parameter indicating assembly including a transmitter, a receiver and a display all carried by a single diver. The display may be integral with or attachable to a diver's face mask (col. 2, lines 19-21). This reference is similar to that disclosed by the inventors in U.S. Patent No. 5,191,317. The present independent claims were drafted to recite that the transmitter assembly is carried by the first diver and the receiver assembly is carried by the second diver, wherein the face mask worn on the second diver's head carries the alert device, such as the display. An alert signal or computer data from the first diver is transmitted to and received by the second diver. Hence, the single diver system, as disclosed by Comerford, et al. or U.S. Patent No. 5,191,317 is not the same as the multiple diver system, as presently claimed. Therefore, the combination of Gardos and Comerford, et al. would not be obvious because Comerford, et al. does not teach or suggest receiving and/or displaying alert signals or computer data received from another diver. Please consider whether you properly considered this language as representative of the distinction we intended or whether an amendment would be necessary to further clarify this distinction.

4. Various claims were rejected under 35 U.S.C. 103(a) as being anticipated over Gardos in combination with Hirsch. In addition to Gardos, as described above, Hirsch discloses tactile sensors, mounted in a back pad to be worn on a diver's back, which are activated by a remote source located on a boat or a control station. This reference is similar to the patents and publications, having vibrating alerts, disclosed by the inventors in described in the present application on page 4, line 22 to page 5, line 2. The present claims were drafted to recite that the tactile alert is carried on the second diver's mask and activated by a remote source located on the first diver. Hence, a diver having a back mounted tactile alert activated by a remote source located on a boat or a control station is not the same as a second diver having a mask mounted tactile alert activated by a remote source located on first diver. Therefore, the combination of Gardos and Hirsch would not be obvious because Hirsch does not teach or suggest mounting the tactile alert on the mask or being activated by a remote source located on another diver. Please consider whether you properly considered this language as representative of the distinction we intended or whether an amendment would be necessary to further clarify this distinction.

5. Thank you for your careful consideration of these items. We appreciate having the opportunity to discuss these items with you because we have already carefully anticipated the

2/3

**Informal Non-Final Response - DO NOT ENTER**

Serial No. 09/862,914 – Magine, et al.

same or similar type of rejections when we initially drafted the present claims. We need some guidance from you as to whether you properly considered the present claim language as representative of the distinctions we intended or whether an amendment would be necessary to further clarify the distinctions. With your guidance, we can provide a complete and efficient response. Please let us know what would be a convenient time to hold a telephone interview. Any inquiry related to this response should be communicated to Kevin Kaschke at the phone number listed below.

Respectfully submitted,  
Daniel J. Magine, et al.

By: Kevin D. Kaschke  
Kevin D. Kaschke  
Attorney/Inventor  
Registration No. 35,767  
Phone: (847) 794-1234  
Fax: (847) 202-0733

3/3

**Informal Non-Final Response – DO NOT ENTER**